

Virginia Interagency Advisory Council on Administrative Dispute Resolution

Minutes

December 5, 2006 Meeting
Richmond, Virginia

Present: Viola Baskerville, Secretary of Administration and Chair; Claudia Farr, Lead Staff; Al Bridger; Joice Conyers; Kathy Fischer; Jim Fisher; John Gazzola; Renita Henderson; Deborah Howe; Leslie Hutcheson-Prince; Larry Jones; John Kirby; Donita King; Fred Kozak; Seward McGhee; Carol Mitchell; Barbara Newlin; Marty Parrish; Bill Price; Ron Regnery; John Settle, and Ernest Spratley

Secretary Baskerville called the meeting to order at approximately 10:00 a.m.

Subcommittee Reports: Claudia Farr announced that Donita King had accepted the role of Co-Chair of the Implementation Subcommittee. Subcommittees gave their reports, which the Council discussed as follows:

Data Subcommittee: Bill Price, Co-Chair, reiterated the need for the Council to review and reconsider the type of metrics needed in the future. Larry Jones, Co-Chair, reported that he has asked an internal metrics group at VDOT to survey other federal and state agencies' use of ADR metrics. Preliminary data gathered indicates that most if not all of the agencies capturing metrics have dedicated funding and staff for their ADR programs. Al Bridger suggested checking with the states of Florida, Oregon and California. The Council concurred with Bill Price's proposal that the Data Subcommittee finish their research and develop metrics-related recommendations to present at the Council's next meeting on March 15, 2007. Contact will also be made with Jane Kusiak, Executive Director of the Council on Virginia's Future, for her input on useful metrics.

Training Subcommittee: Barbara Newlin, Co-Chair, reported that a three-hour interactive training session for new agency Dispute Resolution Coordinators has been scheduled for December 14, 2007. She also reported that the Dept. of Employment Dispute Resolution (EDR) will be focusing on developing training and early intervention pilots to strengthen employee skills in conflict management and to encourage early, less adversarial ways to resolve concerns, and to that end, EDR is discussing partnering ideas with the Training Subcommittee.

Implementation Subcommittee: Carol Mitchell, Co-Chair, reported that this subcommittee is focusing on developing general information about ADR clauses in procurement and contracting for the Council's web site; serving as a key resource to the Department of Minority Business Enterprise and the Department of General Services for the development of the SWaM contract mediation program; identifying ways to strengthen accessibility of ADR to all citizens through reasonable accommodations; and enabling agencies to independently identify, contact and schedule ADR services with either a state employee from the shared pool of neutrals or a private sector practitioner, using the Council's web site. The Council concurred that this solution for identifying a

neutral would make sense in light of the lack of funding for a central coordinator. We also discussed the possibility that agency DRCs could serve in a “point of contact/troubleshooter” role for the public in learning about the options available in resolving issues they may have with the agency. The overall conclusion was that such an approach could be very useful and appropriate, but that the decision on adopting this type of role for the DRC would have to be made by each agency, as each agency is unique.

The subcommittees then met separately before the Council adjourned at approximately 12:00 p.m.

Alternative Dispute Resolution (ADR)

The following data is drawn from the Report of Interagency ADR Working Group, which was written jointly by the Department of Justice and ten Federal agencies and submitted to the President. The purpose of the report was to advocate the establishment of at least one ADR program in each Federal agency and to promote more extensive use of ADR. Within the Federal government there is no standardized method of measuring the benefits of ADR. This is possibly due to the broad nature or size of claims, or due to the variety of ADR procedures utilized. It appears that the vast majority of claims are workplace/EEO related, but they also include medical, technology transfer, service contract, environmental, food stamp, Medicaid, defense contract and construction types of claims. The study cited the following measures that are used to evaluate program effectiveness:

[illegible]

MEASURE	US POSTAL SERVICE	AIR FORCE	AIR FORCE	DEPT. OF HEALTH & HUMAN SERVICES	FEDERAL LABOR RELATIONS AUTH.	ARMED SVCS. BOARD OF CONTRACT APPEALS	GENERAL ACCOUNTING OFFICE	FEDERAL AVAITION AGENCY	DEPT. OF ARMY	SANDIA NATIONAL LAB
% of cases settled without formal complaints being filed (resolution rate)	81%	93%	70%		12.4% went to trial in 1993 vs. 9.2 % went to trial in 1999	FY 98 and FY 99-97%	FY 99-95%	FY 99-Contract disputes-95% Bid protests-53%		
Ratio of settlement \$ to claim \$									\$9mill/\$25mill	
Ratio of savings to program cost										\$600,000 (50% more than the program cost)
\$ value of resolved cases				\$500 mill per year						